

# CONTRACTUAL TERMS FOR TRANSFERRING STANDARD SOFTWARE (PURCHASE)

## - STACKFORCE GMBH -

### 1 SUBJECT MATTER OF THE CONTRACT

- 1.1 The software's nature and scope of performance, including functionality and compatibility, as well as the approved operating environment result from the respective program descriptions, and additionally from the operating manual, unless agreed otherwise. The market-tested rules of technology at the time of the transfer of risk are decisive for the security of the software, unless otherwise agreed or prescribed by law. Public statements can only be decisive for the owed quality insofar as they relate to specific properties of the specifically agreed software.
- 1.2 Unless described otherwise, the software is supplied only in executable form or in the form of a precompiled software library, including an operating manual (user documentation or online help) and installation manual. The operating manual and installation manual can be provided to the customer electronically as well. Further instructions are only supplied if specifically agreed, for example in a parts list.

Before any permitted decompilation, the customer shall first request the necessary information from STACKFORCE GmbH. § 69 d of German copyright law applies insofar as STACKFORCE GmbH's software contains interfaces to software not be supplied by them.

- 1.3 Unless agreed otherwise, the software shall be installed and commissioned by the customer. All STACKFORCE GmbH's further services rendered at the customer's request (especially preparation for use, installation and demonstration of successful installation, briefing, training and consultation) are remunerated according to expenditure.

### 2 RIGHTS TO USE SOFTWARE AND PROTECTION AGAINST UNAUTHORIZED USE

- 2.1 Unless agreed otherwise, after full payment of the agreed remuneration, STACKFORCE GmbH grants the customer the right to use the agreed software within the scope stipulated by the contract. If scope has not been agreed in the contract, then a simple, non-

exclusive and non-transferable, territorially unrestricted right of use in perpetuity is involved. This entitles the customer only to utilization of the software with the agreed performance characteristics in unmodified form and by utilization of documents necessary for usage.

Extended use beyond this must always be agreed contractually before commencement of such use. Remuneration is based on the scope of the right of use.

- 2.2 If the software is software to be embedded, the customer is entitled to incorporate the software to be embedded to the customer's own software and products and to market and promote as well as distribute the software as part of the products of the customer's buyers and business partners.

STACKFORCE GmbH hereby grants the customer the right to grant the customer's buyers and business partners a non-revocable right to use the software incorporated in the customer's own products sold to the latter (sublicense).

Therefore, the customer and the customer's buyers and business partners agree on terms by their discretion, provided however, that the use of the incorporated software shall be subject to the restrictions set forth in this agreement and shall not derogate, in any respect, from STACKFORCE GmbH's rights.

The termination of this agreement shall not effect, in any way, any right to use the software incorporated to own software or products granted by the customer to the customer's buyers and business partners.

- 2.3 Transfer of rights of use to third parties is only permitted if the customer completely relinquishes these rights. The customer is obliged to impose the obligations and restrictions of use relevant to them on the third party. This especially applies to the obligations as set forth in Item 3.5. On STACKFORCE GmbH's request, the customer shall confirm relinquishment of own use in writing.
- 2.4 The customer may only copy software if this is necessary for use according to the contract. The number of copies complies with the contractual agreed number, whereas one license is equivalent to one copy if not agreed otherwise. Copyright notices in the software may not be changed or deleted.
- 2.5 STACKFORCE GmbH is authorized to take appropriate technical measures to prevent use contrary to the contract. Use of the software on an alternative or subsequent configuration must not be significantly affected by this.

- 2.6 Right of use of transferred copies is granted because of full payment of the due remuneration. Any individual rights of use granted beforehand are done so only temporarily and can be freely revoked by STACKFORCE GmbH.
- 2.7 STACKFORCE GmbH can revoke the customer's further right of use of not yet incorporated software, if they significantly breach the restrictions of use or other rules on preventing unauthorized use (see also Items 3.4 and 3.5). STACKFORCE GmbH shall set a grace period of remedy for the customer beforehand. In case of recurrence and in special circumstances which justify immediate revocation, bearing in mind the interests of both sides, STACKFORCE GmbH can also declare revocation without setting a period of notice. After revocation, the customer shall give STACKFORCE GmbH written confirmation that use has been suspended. STACKFORCE GmbH shall restore rights of use for the customer after they have submitted and warranted in writing that there are no more breaches of these rights of use, and previous breaches as well as their consequences have been eliminated.

### 3 CUSTOMER'S OBLIGATIONS

- 3.1 The customer shall ensure that technically trained staff become available to support STACKFORCE GmbH and use the software no later than the time of delivery agreed between the parties.
- 3.2 The customer shall promptly inform STACKFORCE GmbH about any changes in the operating environment. Item 1.1 remains unaffected.
- 3.3 Where necessary, the customer shall support STACKFORCE GmbH in remedying defects and, in particular, if requested by STACKFORCE GmbH, submit the relevant software via a transmission path mutually agreed between STACKFORCE GmbH and the customer, besides supplying work equipment, only if the customer consents by the law applicable.
- 3.4 The customer acknowledges that the software as well as the operating manual and other documents - including their future versions - are protected by copyright law. These may also include trade secrets in whole or in part.

In particular, source programs or rather source codes are STACKFORCE GmbH's trade secrets, unless they are freely available or regulated otherwise by individual contractual agreements. The customer shall take ongoing precautions to ensure that source programs or rather source codes are not accessible to third parties without STACKFORCE GmbH's consent. The provisions in Item 2.6 of the General Terms and Conditions (GTC) apply additionally.

Transfer of source programs or rather source codes requires STACKFORCE GmbH's consent, which may not be refused contrary to the principles of good faith. STACKFORCE GmbH shall submit source programs or rather source codes only on the basis of express agreements.

- 3.5 The customer must do nothing that might encourage unauthorized use. In particular, the customer must not attempt to decompile programs unless said customer is entitled to this by law. The customer shall promptly inform STACKFORCE GmbH if said customer becomes aware that unauthorized access is impending or has occurred in their sphere.

## 4 CUSTOMER'S CLAIMS DUE TO DEFECTS

- 4.1 STACKFORCE GmbH guarantees that the software, when used in accordance with the contract, complies with the agreements as stated in Item 1.1.

The statute of limitations for claims due to defects commences on delivery. An extension to the scope of use (Item 2.1 Paragraph 2) does not influence the term of the statute of limitation.

Item 5 of the GTC applies additionally to defects of title.

Item 4 of the GTC applies additionally to material defects according to the following provisions of Items 4.2 – 4.4. § 475 a of the German Civil Code remains unaffected.

- 4.2 The customer may assert claims due to defects only if the reported defects can be reproduced or proven in another way by the customer. Item 2.4 of the GTC applies, in particular, to reports about defects.
- 4.3 If the customer is entitled to claims due to defects, said customer initially only has a right to supplementary performance within a reasonable period. Supplementary performance includes, at STACKFORCE GmbH's discretion, either remedy or delivery of replacement software. The customer's interests are to be considered adequately in the choice.

The customer shall enable installation and removal for STACKFORCE GmbH in the scope of supplementary performance, unless this is unreasonable for the customer. Before taking own measures to remedy defects, the customer shall consult STACKFORCE GmbH. The customer gives STACKFORCE GmbH reasonable access to the software for the purpose of supplementary performance.

- 4.4 If supplementary performance fails or cannot be implemented for other reasons, the customer can reduce remuneration in accordance with legal requirements, rescind the

contract and/or request compensation for damages or expenditures - within the scope of Item 6 of the GTC.

If supplementary performance is delayed, Item 3.4 of the GTC applies to STACKFORCE GmbH's compensation for damages and expenditures.

The customer shall exercise a right of choice to which they are entitled regarding these claims due to defects within a reasonable period, generally within 14 calendar days from the time of being able to realize the customer's right of choice.

## 5 VALIDITY OF GENERAL TERMS AND CONDITIONS

STACKFORCE GmbH's General Terms and Conditions (GTC) apply additionally.

This document is a courtesy translation. The German version of these terms shall be the legally binding version.